

Remarks

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 33 and 36. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Applicant gratefully appreciates the examiner's indication that claims 4, 32 and 35-36 are objected to for being dependent and would be allowable if resubmitted in independent form. Applicant further gratefully appreciates the examiner's indication that claims 33-34 are allowable.

As to the examiner's remarks concerning the Wu '197 reference, applicant states that the subject application and the Wu '197 reference were, at the time the invention was made, owned by, or subject to an obligation of assignment, to the same entity. Thus, under MPEP 706.02, the Wu '197 reference is NOT available as prior art under sec. 102e against the subject application. As stated on page 3 of the office action mailed January 27, 2004, the Examiner states, that with such a statement as that listed in the preceding sentence, then at most, the "applicants could be invited to file a terminal disclaimer to overcome any potential double patenting rejection." If an obviousness type rejection is made in the subject application, applicant is prepared to file a terminal disclaimer.

Applicant has included with the subject application response, formal drawings which include changes that were approved in previous drawings submitted August 8, 2001 and June 2, 2003. Fig. 1 includes a clean copy of original Fig. 1. Figures 2B and 2C now include the correct label for component 25, and Fig. 2E has now deleted extraneous label 117. Thus, the subject formal drawings should be approved.

The objection to claims 1, 4-7, 32 and 36 is now moot since claims 1 and 36 have been amended to follow the suggestions of the examiner.

Claims 33-34 were rejected under sec. 112, second paragraph as being indefinite. This rejection is now moot since claim 33 has been amended to include the suggestion by the examiner.

Claims 1, 5-7, 20, 23-25, 27-28 and 30 were rejected under sec. 102e as being anticipated by Wu '197. This rejection is now moot, since applicant has previously stated above that “..the subject application and the Wu '197 reference were, at the time the invention was made, owned by, or subject to an obligation of assignment, to the same entity....” Thus, removal of this rejection is respectfully requested.

Applicant contends the references cannot be modified to incorporate the features of subject claims 1, 4-7, 20, 23-25, 27, 28, 30 and 32-36 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination.

In view of the foregoing considerations, it is respectfully urged that the subject amendment be entered and claims 1, 4-7, 20, 23-25, 27, 28, 30 and 32-36 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



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